**HON'BLE SRI JUSTICE GODA RAGHURAM**

**W.P.NO. 4549 OF 2006**

**DATED: 17.03.2006**

Between:

G. Rama Bhupal

… Petitioner

and

The Commissioner of Prohibition and

Excise, Hyderabad and others

… Respondents

**HON'BLE SRI JUSTICE GODA RAGHURAM**

**W.P.NO. 4549 OF 2006**

**ORAL ORDER:**

The petitioner's lorry bearing registration No. AP 21 V 7744, on inspection on 18.11.2005 at Kodikonda check post, was found transporting 8 gunny bags each with 500 arrack sachets, in all 4000 arrack sachets. Some of the passengers in the lorry ran away but the driver and the cleaner were apprehended. They admitted to transporting contraband liquor from Bagepalli in Karnataka State for sale at Anantapur town. Eventually, a case under Section 46 of the Excise Act, 1968 read with Section 13 of the A.P. Prohibition Act, 1995 was initiated after seizure of the petitioner's vehicle. The petitioner made an application for ad-interim release of the vehicle in his favour, pending the finalization of the excise case.

The 2nd respondent by the order dated 6.1.2006 confiscated the petitioner's vehicle for commission of an excise offence. Aggrieved by the order of confiscation, the petitioner preferred an appeal to the 1st respondent. In the appeal, the petitioner sought for interim custody of the vehicle pending the appeal. By the order dated 27.2.2006 (impugned in this writ petition), the 1st respondent granted release of the vehicle to the interim custody of the petitioner, on the petitioner furnishing a bank guarantee for the full value of the vehicle i.e. Rs.4,75,000/-, subject to certain other conditions set out in the 1st respondent's order dated 27.2.2006. The petitioner is not aggrieved by the other conditions. He is aggrieved solely that he has to furnish a bank guarantee for the value of Rs.4,75,000/-. He pleads financial incapacity to furnish the said bank guarantee.

The petitioner was found guilty of having committed an excise offence through the use of his vehicle for carrying contraband arrack from Karnataka to Andhra Pradesh, thereby not only contravening the relevant provisions of the excise law but also acting detrimental in the revenue interests of the State. The 2nd

respondent has ordered confiscation of the petitioner's vehicle by the order dated 6.1.2006. The petitioner's appeal is pending before the 1st respondent. The rationality of the 1st respondent's order dated 27.2.2006, directing release of the vehicle in the petitioner's custody on furnishing the full value of the vehicle by way of a bank guarantee, must be considered in the context of the above facts.

As there is already an order of confiscation, it cannot be said that the 1st respondent acted irrationally in directing furnishing of a surety for the full value of the vehicle and by way of a bank guarantee, as a condition precedent for the interim release of the vehicle.

No case is made out for interference. No error is seen in the impugned order. No merits in the writ petition either. The writ petition is accordingly dismissed at the stage of admission. No order as to costs.

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**GODA RAGHURAM, J**

**Date: 17.03.2006**

cvm